

## HEALTH FACILITY COMMITTEE MEETING

Cannon Health Building, Room 114

September 21, 2001, 9:00 – 12:00

**Members Present:** Marilyn Williams; Mary Petersen; Galen Ewer; Keith Tintle; Gayle Morawetz; Joyce Wanta; Kathy Siskin; Travis Jackman; Kathleen Fitzgerald; and Helen Rollins.

**Staff Present:** Debra Wynkoop; Joan Isom; Donna Riley; David Eagar; Joel Hoffman; Larry Naylor; and Pennie Knudson.

**Members Excused:** Glade Bigler and Paul Clayton.

**Member Absent:** Timothy Thomas

The meeting was called to order at 9:10 a.m.

**1. Welcome:**

Ms. Siskin called the meeting to order. Keith Tintle, Mary Petersen, Marilyn Williams and Galen Ewer introduced themselves at the committee meeting.

**2. Minutes of May 18, 2001:**

Ms Morawetz made a motion that the minutes be accepted with no corrections or additions. Ms. Wanta seconded the motion. The **MOTION PASSED** unanimously.

**3. Old business:**

**A. End of Life Sub-Committee:**

Ms. Wynkoop stated that Mr. Rod Betit, Executive Director of the Department of Health, suggested that a sub-committee be organized to create a new rule that would require each long-term care facility to act affirmatively to locate a living will for each new patient/resident within 30 days. Once the document has been located and on file then the facility would be responsible to transfer that document with the patient/resident throughout the health care delivery system. Once the living will has been presented, the facility is responsible to make sure that the preferences are

noted and recorded in a treatment plan that will guide the residents care. The new rule would require the facility to provide education to patients, residents and families for end of life care decisions, to document the expressed preferences and ensure that the living will documents are transferred when necessary.

Ms Siskin stated that many times the patient's wishes are included in a progress note signed by the doctor and that information has not been readily available to the facility. Many patients are terminally ill and did not survive 30 days after the transfer. The receiving facility did not have the information expressing the patient's wishes. She questioned whether this new rule would alleviate this problem and whether the patient's preferences would be available upon discharge?

Ms. Wynkoop replied that these details will need to be worked out as the sub-committee develops the new rule.

Mr. Ewer questioned why the rule limits the facility categories? He stated that his facility has the same problem obtaining the information, which may be in a patient record. He would like the target group expanded to include more facility types.

Mr. Chad McNiven, Long Term Care Ombudsman, requested a correction to the portability form. In section "B" where it says refer to "B" it should say "C" instead.

Ms. Rollins made a motion that a sub-committee be developed to study the end of life issue. Ms. Morawetz seconded the motion. The **MOTION PASSED** unanimously. Ms. Rollins, Mr. Tintle, Ms. Morawetz, and Marilyn Williams volunteered to work on this committee. Ms. Rollins will be the chairperson and Mr. Tintle will be the co-chairperson.

**B. Patient Safety Task Force-Mandatory Reporting :**

Mr. Eagar reported on the Patient Safety Summit that had convened on September 11-12, 2001 in Park City, Utah. Mr. Eagar explained that Utah has taken the lead in a collaborative effort with Health Insight, Utah Hospital Association, Utah Department of Health, and The Joint Commission to develop a system and an environment for reporting errors. The meeting stressed a culture of safety for patients and emphasizing:

- 1) Do no harm, which is the basis premise for health care;
- 2) To actively reward voluntary reporting and to punish failure to report;
- 3) To have a system that makes it easy to report; and
- 4) Designation of a "Patient Safety Officer", someone who takes ownership and responsibility to enforce, to review and to ensure that the process is being completed.

Mr. Eagar reported that one of the largest concerns expressed at the Summit was confidentiality. Mr. Doug Springmeyer, Legal counsel for the Department of Health, emphasized that the reporting is covered under

the federal exclusion for public health entities and therefore is not subject to HIPA (Health Insurance Portability Act) and this data would be protected.

Dr. Bruce Murray, Utah Hospital Association stated that a Department approved form has been developed and all sentinel events would be reported to the Department of Health. Dr. Scott Williams has proposed that two “user” groups will be organized. The first group will be comprised of the Patient Safety Officers and the second group will be the workers that supply the data. Each group will meet periodically and provide feedback to the Department of Health and the Utah Hospital Association, concerning the implementation of the rule. The effective date of this rule will be October 1, 2001.

Ms. Wynkoop explained that the Health Facility Committee’s role will be to assign an auditor to ensure the data is complete. Health Systems Improvement will collect and analyze the data.

Ms. Rollins reported that LDS Hospital has been concerned with the shortage of nurses and the reasons that nurses are quitting the profession. Survey results concluded that the number one reason for the nurse’s leaving the profession is that they are afraid of making mistakes. The culture of safety for reporting errors needs to be in place to relieve nurse’s stress.

Dr. Murray reported that some facilities will offer incentives for reporting these sentinel events.

**C. Background Screening Rule :**

Ms. Wynkoop explained that legal counsel wrote the concept summary and the rule consequently a sub-committee is not necessary.

Ms. Wynkoop explained that the statute limits the Bureau’s authority to screen only persons providing direct care to patients and residents. There is a congressional proposal to expand this definition for nursing homes to include “all individuals having access to patient care areas”. Mr. Ewer requested that the rule include “persons contracted to perform direct care.” The Bureau will amend the rule. Ms. Wynkoop explained that only state agencies have access to CPS and APS management information systems. Mr. Ewer requested an amendment to R432-35-5 (6) where it states that the Bureau of Licensing must be contacted within 48 hours if an employee has been arrested or convicted of a criminal act. Ms. Wynkoop explained that the facility must have knowledge of the arrest and she will reflect this change.

Ms. Morawetz made a motion to accept the rule along with the changes and additions. Ms. Petersen seconded the motion. The **MOTION PASSED** unanimously.

**D. Change of Ownership Rule :**

Ms. Wynkoop explained that this rule makes two modifications: 1) Defines the situation when a conditional license may be issued; and 2) A change of ownership scenario. This information permits the Bureau to know who is legally responsible for the operation of the facility.

Ms. Fitzgerald made a motion to approve the rule. Ms. Morawetz seconded the motion. The **MOTION PASSED** unanimously.

**4. Long-Term Care Moratorium:**

Ms. Iona Thraen presented the research to date, completed by the Division of Health Systems Improvement to analyze whether the Medicaid Moratorium has been effective in meeting the original goals. (see handout)

Mr. Rod Betit, Executive Director of the Department of Health, placed a moratorium on Medicaid certification of new Long-term care providers in the state of Utah in 1988 because of the low occupancy rate and facilities were finding themselves in financial difficulty. Every five years he re-evaluates that decision and reviews the long-term care industry data.

Further analysis and data collection is needed to form a recommendation whether to lift the moratorium. The committee members discussed that further data collection may be needed to analyze; 1) How a drop-in census affects the number of deficiencies and the quality of care; 2) Whether the change in patient demographics and increased acuity has been a contributing factor? HMO's limiting hospital stay has increased the number of sicker patients; 3) Whether the "licensed capacity" is the correct number to report. Many facilities do not use all beds for patient care and some are designated as office space. Perhaps reporting on "staffed beds" would be more accurate; 4) Questions arose about the change in financial viability based on a different case mix of Medicaid/Medicare and private pay patients.

Ms. Thraen will continue researching and will report back to the Health Facility Committee.

**5. New Items :**

**A. Influenza-Pneumococcal Vaccines:**

Ms. Wynkoop introduced Ms. Linda Abel, Immunization Program Manager with the Division of Community and Family Health Services.

Ms. Abel has been working with the Utah Adult Immunization Coalition to increase the percentage of Utahns who obtain adult immunizations.

Ms. Abel reported that last year when there was a flu vaccine shortage she surveyed the assisted living and long-term care facilities to identify whether the facilities had a sufficient supply of vaccine to immunize this high-risk population. She discovered that most facilities did not have a policy to require immunization, or a method to obtain consent from the guardians for the patient/resident to receive immunization and the facilities could not report whether residents had received their influenza or pneumococcal immunizations. Of the institutionalized individuals only

16% reported to have received these immunizations, whereas other older adults in Utah, had the 2<sup>nd</sup> highest immunizations rate in the nation. The coalition is proposing a rule change that will require facilities to have standing orders and policies to immunize their residents with influenza and pneumococcal vaccine and require staff to receive the influenza vaccine.

Mr. Ewer volunteered to be the chairperson for this rule sub-committee. Ms. Wanta said that she would be the co-chairperson and Ms. Jackman stated that she would be interested in serving on the committee. Concerns were expressed that the rule may not be in effect for this flu season. Ms. Abel stated that the concept summary information describes what goes on the rule. It just needs to be changed to the rule format. Ms. Wynkoop stated that we could send out a request to facilities to voluntarily comply with the proposed rule, but the final rule will also require immunization data to be collected. Ms. Abel stated that her Bureau is already set up to collect data for childhood immunization and that the addition of adult information would be easy to develop.

A motion was made to approve a sub-committee for the influenza pneumococcal vaccines by Ms. Morawetz. Mr. Tintle seconded the motion. The **MOTION PASSED** unanimously.

**B. Construction Rule Concept Summary :**

Mr. Naylor explained that the state has adopted the Life Safety Code. The state is proposing the adoption of the Guidelines for the Design and Construction of Hospitals and Health Care Facilities, the International Building Code and the International Fire Code. Many of the codes and guidelines have been amended which will be effective January 1, 2002. The Bureau is proposing a rule amendment updating those references. A motion was made by Ms. Fitzgerald to form a sub-committee to evaluate the rule change on the construction rule. Ms. Williams seconded the motion. The **MOTION PASSED** unanimously. A motion was made to nominate Timothy Thomas to chair this committee.

**C. Change in Terms “Chronic Disease VS. Long-Term Hospital:**

There are three Chronic Disease hospitals licensed in Utah. Ms. Wynkoop proposed that we compare the “Long Term Care Hospital” definition from Medicare with the state definition of “Chronic Disease” and evaluate who they serve and what services should be provided. She reported that she has received two or three inquiries regarding building new Long Term Care Hospitals in Utah.

Ms. Wynkoop stated that a concept summary will be ready for the next Health Facility Committee meeting on November 16, 2001. Dr. Murray stated that he would be willing to work on the concept summary.

**D. Building Blocks :**

Ms. Wynkoop reviewed the Bureau's Building Block request, facility growth charts, construction reports and survey activity reports.

Ms. Wynkoop explained that 210 facilities will not receive a survey this year by either Medicaid/Medicare or the Bureau of Licensing due to reduced funding for survey activities. She suggested that the facilities be sent out a Self-survey attesting that they are in compliance with licensing rules, and then the Bureau would randomly audit some of the facilities. She stated that the self-audit tool would be brought to the Health Facility Committee for their review at the next committee meeting.

Ms Williams questioned whether a sampling of the families of the resident/ patients could be part of the self-audit tool? Ms. Wynkoop stated that could be added.

**6. Other Business:**

Ms. Fitzgerald asked if Ms. Lewson could be invited to our next Health Facility Committee Meeting to discuss how the single certification of the HHA/CNA has been operationalized. Concerns have been expressed that the anticipated increase in staff has not materialized and that home health aides cannot pass the test.

The meeting adjourned at 12:05 p.m.

---

Kathy Siskin, Chairperson

---

Debra Wynkoop, Executive Secretary